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7 PEDRO MEDINA CASTILLON,  
8 Petitioner,  
9 v.  
10 THE PEOPLE OF THE STATE OF  
11 CALIFORNIA, et al.,  
12 Respondent.

Case No. [21-cv-00973-EMC](#)

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28 **ORDER OF DISMISSAL WITH  
FURTHER LEAVE TO AMEND**

**I. BACKGROUND**

Pedro Medina Castillon, an inmate currently housed at the Centinela State Prison, filed this *pro se* action for a writ of habeas corpus pursuant to 28 U.S.C. § 2254.

The Court reviewed Mr. Castillon's petition pursuant to 28 U.S.C. § 2243 and Rule 4 of the Rules Governing Section 2254 Cases, and dismissed the petition in part. *See* Docket No. 13. Specifically, the Court noted that of Mr. Castillon's ten claims, Claims 1-3, 7, 9, and 10 were cognizable, but Claims 4-6 and 8 could not proceed because they identified violations only of California law. *See id.* at 3. The Court allowed Mr. Castillon to file an amended petition which would identify federal rights supporting Claims 4-6 and 8. *See id.* at 3-4.

Mr. Castillon filed an amended petition, *see* Docket No. 16 ("Amended Petition"), which is now before the Court for review pursuant to 28 U.S.C. § 2243 and Rule 4 of the Rules Governing Section 2254 Cases.

For the reasons below, the amended petition is dismissed with further leave to amend.

**II. DISCUSSION**

Mr. Castillon still has not identified the federal rights which underly Claims 4-6 and 8.

1 Specifically, the only authority cited for Claim 4 is a California appellate case. *See* Am. Pet. at 2.<sup>1</sup>  
2 For Claims 5 and 6, Mr. Castillon cites Ninth Circuit opinions without explanation, and then goes  
3 on to discuss a California appellate decision at length. *See id.* at 4, 6. For Claim 8, Mr. Castillon  
4 cites Ninth Circuit opinions, but does not discuss any federal right. *See id.* at 9. For each claim,  
5 Mr. Castillon's amended petition fails to identify a federal constitutional right which was violated.

6 A person in custody pursuant to the judgment of a state court can obtain a federal writ of  
7 habeas corpus *only* on the ground that he is in custody in violation of the Constitution or laws or  
8 treaties of the United States. 28 U.S.C. § 2254(a). In other words, “it is only noncompliance with  
9 *federal* law that renders a State’s criminal judgment susceptible to collateral attack in the federal  
10 courts.” *Wilson v. Corcoran*, 562 U.S. 1, 5 (2010). The Supreme Court has repeatedly held that  
11 the federal habeas writ is generally unavailable for violations of state law or for alleged error in  
12 the interpretation or application of state law. *See Swarthout v. Cooke*, 562 U.S. 216, 219 (2011);  
13 *Estelle v. McGuire*, 502 U.S. 62, 67-68 (1991); *Engle v. Isaac*, 456 U.S. 107, 119 (1982); *Peltier*  
14 *v. Wright*, 15 F.3d 860, 861-62 (9th Cir. 1994). It is unavailable unless “the Constitution or other  
15 federal law *specifically* protects against the alleged unfairness or guarantees the procedural right in  
16 state court.” *Middleton v. Cupp*, 768 F.2d 1083, 1085 (9th Cir. 1985) (emphasis added), *cert.*  
17 *denied*, 478 U.S. 1021 (1986).

18 For Mr. Castillon, this means that it is not enough to cite a Ninth Circuit case without  
19 identifying any federal right that was violated, or to cite a California case. Instead, Mr. Castillon  
20 should identify a right guaranteed by the United States Constitution that was violated by the trial  
21 court’s actions. Specifically, Mr. Castillon must identify which federal constitutional right was  
22 violated when the trial court excluded evidence (Claims 4-6), and which federal constitutional  
23 right was violated by the trial court’s jury instruction (Claim 8).

24 The Court will allow Mr. Castillon one last opportunity to identify a federal constitutional  
25 right underlying Claims 4-6 and 8. If Mr. Castillon cannot do so, the case will go forward with  
26 only the first, second, third, seventh, ninth, and tenth claims, as the Court previously determined  
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28<sup>1</sup> The Court uses the page numbers applied by the ECF system.

1 that those claims are cognizable.

2 **III. CONCLUSION**

3 For the foregoing reasons, the amended petition for writ of habeas corpus is **DISMISSED**  
4 **WITH LEAVE TO AMEND.** Petitioner must file a second amended petition curing the  
5 deficiencies identified in this order no later than **June 3, 2022**. The second amended petition  
6 should have the case caption and case number on the first page and should be clearly marked  
7 “Second Amended Petition.”

8 The second amended petition must be a complete statement of Petitioner’s claims. *See*  
9 *Lacey v. Maricopa County*, 693 F.3d 896, 928 (9th Cir. 2012) (en banc) (“For claims dismissed  
10 with prejudice and without leave to amend, we will not require that they be replied in a subsequent  
11 amended complaint to preserve them for appeal. But for any claims voluntarily dismissed, we will  
12 consider those claims to be waived if not replied.”)

13 If Petitioner does not file a second amended petition by the deadline, the case will go  
14 forward with only the first, second, third, seventh, ninth, and tenth claims, as the Court previously  
15 has determined that those claims are cognizable.

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17 **IT IS SO ORDERED.**

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19 Dated: April 28, 2022

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EDWARD M. CHEN  
United States District Judge